



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[Doc. No. AMS-LS-12-0022]

Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust the number of members on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was last reapportioned in 2009. As required by the Soybean Promotion, Research, and Consumer Information Act (Act), membership on the Board is reviewed every 3 years and adjustments are made accordingly. This proposed change would result in an increase in Board membership for one State, increasing the total number of Board members from 69 to 70. These changes would be reflected in the Soybean Promotion and Research Order (Order) and would be effective for the 2013 appointment process.

DATES: Comments must be received by [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: Comments should be posted online at www.regulations.gov. Comments received will be posted without change, including any personal information provided. All comments should reference the docket number, AMS-LS-12-0022; the date of submission; and the page number of this issue of the Federal Register. Comments may also be sent to Kenneth R. Payne, Director, Marketing Programs Division, Livestock and Seed Program, Agricultural Marketing Service (AMS), Department of Agriculture (USDA), Room 2628-S, STOP 0251,

1400 Independence Avenue, SW., Washington, DC 20250-0251; or via Fax to (202) 720–1125.

Comments will be made available for public inspection at the above address during regular business hours or via the Internet at www.regulations.gov. Comments must be received by [Insert date 60 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Director, Marketing Programs Division, Livestock and Seed Program, AMS, USDA, Room 2628-S, STOP 0251, 1400 Independence Avenue, SW., Washington, D.C. 20250-0251; Telephone 202/720-1115; Fax 202/720-1125; or e-mail to Kenneth.Payne@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This proposed rule was reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. This action would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act, a person subject to the Order may file a petition with USDA stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law and request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that district courts of the United States in any district in which such person is an inhabitant, or has their

principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), because it only adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was last reapportioned in 2009. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. As such, these changes will not impose a significant impact on persons subject to the program.

There are an estimated 589,182 soybean producers and an estimated 10,000 first purchasers who collect the assessment, most of whom would be considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than \$750,000.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 1220 were previously approved by OMB and were assigned control number 0581-0093.

Background and proposed changes

The Act (7 U.S.C. 6301-6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective

July 9, 1991. The Order established an initial Board with 60 members. For purposes of establishing the Board, the United States was divided into 31 States and geographical units. Representation on the Board from each unit was determined by the level of production in each unit. The initial Board was appointed on July 11, 1991. The Board is composed of soybean producers.

Section 1220.201(c) of the Order provides that at the end of each 3-year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary of Agriculture (Secretary) modification in the levels of production necessary for Board membership for each unit.

Section 1220.201(d) of the Order provides that at the end of each 3-year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in §1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3,000,000 bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3,000,000 bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3,000,000 bushels, but fewer than 15,000,000 bushels shall be entitled to one board member; (3) units with 15,000,000 bushels or more but fewer than 70,000,000 bushels shall be entitled to two Board members; (4) units with 70,000,000 bushels or more but fewer than 200,000,000 bushels shall be entitled to three Board members; and (5) units with 200,000,000 bushels or more shall be entitled to four Board members.

The Board was last reapportioned in 2009. The total Board membership increased from 68 to 69 members, with Ohio gaining one additional member. This change was effective with the 2010 appointments.

Currently, the Board has 69 members representing 30 geographical units. This membership is based on average production levels for the years 2001-2005 (excluding crops in years that production was the highest and that production was the lowest) as reported by USDA's National Agricultural Statistics Service (NASS).

This proposed rule would increase total membership on the Board from 69 to 70. Production data for years 2007-2011 (excluding the crops in years in which production was the highest and in which production was the lowest) was gathered from NASS. This change would not affect the number of geographical units.

This proposed rule would adjust representation on the Board as follows:

State	Current Representation	Proposed Representation
Mississippi	2	3

Board adjustments as proposed by this rulemaking would become effective, if adopted, with the 2013 appointment process.

LIST OF SUBJECTS IN 7 CFR 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, part 1220 be amended as follows:

PART 1220-SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301-6311 and 7 U.S.C. 7401.

2. In §1220.201, the table immediately following paragraph (a) is revised to read as

follows:

§1220.201 Membership of board.

Unit	No. of Members
Illinois	4
Iowa	4
Minnesota	4
Indiana	4
Nebraska	4
Ohio	4
Missouri	3
Arkansas	3
South Dakota	3
Kansas	3
Michigan	3
North Dakota	3
Mississippi	3
Louisiana	2
Tennessee	2
North Carolina	2
Kentucky	2
Pennsylvania	2
Virginia	2
Maryland	2
Wisconsin	2
Georgia	1
South Carolina	1
Alabama	1
Delaware	1
Texas	1
Oklahoma	1
New York	1

Unit	No. of Members
Eastern Region (Florida, Massachusetts, New Jersey Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico.	1
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska).	1

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Dated: July 3, 2012

David R. Shipman
Administrator
Agricultural Marketing Service

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